

HOUSE BILL 980

G2, L2

(11r2177)

ENROLLED BILL

— Environment and Transportation/Education, Health, and Environmental Affairs —

Introduced by **Prince George’s County Delegation**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o’clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Prince George’s County – Public Ethics – ~~Definition of Application~~ Payments**
3 **and Transfer and Zone Intensification Requests**

4 PG 416-21

5 FOR the purpose of ~~altering a certain definition of “application” to exclude participation in~~
6 ~~adopting and approving a certain amendment to a countywide zoning map in Prince~~
7 ~~George’s County for a certain purpose~~ exempting a member of the Prince George’s
8 County Council from the prohibition against voting or participating in a proceeding
9 regarding a countywide zoning map amendment under certain circumstances;
10 providing for the application of certain provisions of this Act; prohibiting the Prince
11 George’s County Planning Board from recommending, and the District Council in
12 Prince George’s County from approving, a certain request in adopting and approving
13 a countywide zoning map amendment, subject to a certain exception; requiring that a
14 member’s treasurer, a continuing political committee, or a slate to which the member

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 belongs or belonged return a certain payment or transfer and provide a certain notice
 2 in a certain manner; providing for the termination of this Act; and generally relating
 3 to public ethics and Prince George's County.

4 BY repealing and reenacting, without amendments,

5 Article – General Provisions

6 Section ~~5-833(a), (i), (j), and (k)~~ 5-833

7 Annotated Code of Maryland

8 (2019 Replacement Volume and 2020 Supplement)

9 BY repealing and reenacting, with amendments,

10 Article – General Provisions

11 Section ~~5-833(d)~~ 5-835

12 Annotated Code of Maryland

13 (2019 Replacement Volume and 2020 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 15 That the Laws of Maryland read as follows:

16 **Article – General Provisions**

17 5-833.

18 (a) In this part the following words have the meanings indicated.

19 (b) (1) “Agent” means an individual or a business entity hired or retained by an
 20 applicant for any purpose relating to the land that is the subject of an application if the
 21 individual or business entity is:

22 (i) an accountant;

23 (ii) an attorney;

24 (iii) an architect;

25 (iv) an engineer;

26 (v) a land use consultant;

27 (vi) an economic consultant;

28 (vii) a real estate agent;

29 (viii) a real estate broker;

30 (ix) a traffic consultant; or

1 (x) a traffic engineer.

2 (2) “Agent” includes:

3 (i) as to a corporation described in paragraph (1) of this subsection,
4 its officers, directors, and majority stockholders who are engaged in substantive activities
5 pertaining specifically to land development in Prince George’s County as a regular part of
6 their ongoing business activities;

7 (ii) as to a partnership or limited partnership described in paragraph
8 (1) of this subsection, its general partners and limited partners who are engaged in
9 substantive activities pertaining specifically to land development in Prince George’s County
10 as a regular part of their ongoing business activities; and

11 (iii) as to a joint venture described in paragraph (1) of this subsection,
12 the principal members of the joint venture who are engaged in substantive activities
13 pertaining specifically to land development in Prince George’s County as a regular part of
14 their ongoing business activities.

15 (c) (1) “Applicant” means an individual or a business entity that is:

16 (i) a title owner or contract purchaser of land that is the subject of
17 an application;

18 (ii) a trustee that has an interest in land that is the subject of an
19 application, excluding a trustee described in a mortgage or deed of trust; or

20 (iii) a holder of at least a 5% interest in a business entity that has an
21 interest in land that is the subject of an application but only if:

22 1. the holder of at least a 5% interest has substantive
23 involvement in directing the affairs of the business entity with an interest in the land that is
24 the subject of an application with specific regard to the disposition of that land; or

25 2. the holder of at least a 5% interest is engaged in substantive
26 activities specifically pertaining to land development in Prince George’s County as a regular
27 part of the business entity’s ongoing business activities.

28 (2) “Applicant” includes:

29 (i) any business entity in which a person described in paragraph (1)
30 of this subsection holds at least a 5% interest; and

31 (ii) the directors and officers of a corporation that actually holds title
32 to the land, or is a contract purchaser of the land, that is the subject of an application.

33 (3) “Applicant” does not include:

1 (i) a financial institution that has loaned money or extended
 2 financing for the acquisition, development, or construction of improvements on any land that
 3 is the subject of an application;

4 (ii) a municipal corporation or public corporation;

5 (iii) a public authority;

6 (iv) a public utility regulated by the Public Service Commission in any
 7 instance where the utility is engaged in or conducting regulated activities that have been
 8 approved by the Public Service Commission or are allowed under Division I of the Public
 9 Utilities Article; or

10 (v) the directors and officers of any entity that does not hold title to
 11 the land, or is not the contract purchaser of the land, that is the subject of an application.

12 (d) ~~(1)~~ “Application” means:

13 ~~{(1)}~~ ~~(1)~~ an application for:

14 ~~{(i)}~~ ~~1~~ a zoning map amendment;

15 ~~{(ii)}~~ ~~2~~ a special exception;

16 ~~{(iii)}~~ ~~3~~ a departure from design standards;

17 ~~{(iv)}~~ ~~4~~ a revision to a special exception site plan;

18 ~~{(v)}~~ ~~5~~ an expansion of a legal nonconforming use;

19 ~~{(vi)}~~ ~~6~~ a revision to a legal nonconforming use site plan; or

20 ~~{(vii)}~~ ~~7~~ a request for a variance from the zoning ordinance;

21 ~~{(2)}~~ ~~(2)~~ an application to approve:

22 ~~{(i)}~~ ~~1~~ a comprehensive design plan;

23 ~~{(ii)}~~ ~~2~~ a conceptual site plan; or

24 ~~{(iii)}~~ ~~3~~ a specific design plan; or

25 ~~{(3)}~~ ~~(3)~~ participation in adopting and approving an area master plan or
 26 sectional map amendment by appearance at a public hearing, filing a statement in the
 27 official record, or other similar communication to a member of the County Council or the

1 Planning Board, where the intent is to intensify the zoning category applicable to the land
2 of the applicant.

3 ~~(2) “APPLICATION” DOES NOT INCLUDE PARTICIPATION IN~~
4 ~~ADOPTING AND APPROVING A COUNTYWIDE ZONING MAP AMENDMENT THAT IS~~
5 ~~RECOMMENDED BY THE PLANNING BOARD AND APPROVED BY THE DISTRICT~~
6 ~~COUNCIL, WHERE THE INTENT IS TO IMPLEMENT AN APPROVED GENERAL PLAN BY~~
7 ~~REPEALING AND REPLACING ALL ZONING CATEGORIES APPLICABLE TO LAND IN~~
8 ~~PRINCE GEORGE’S COUNTY.~~

9 (e) “Business entity” means:

10 (1) a corporation;

11 (2) a general partnership;

12 (3) a joint venture;

13 (4) a limited liability company;

14 (5) a limited partnership; or

15 (6) a sole proprietorship.

16 (f) “Candidate” means a candidate for election to the County Council who becomes
17 a member.

18 (g) “Continuing political committee” means a committee specifically created to
19 promote the candidacy of a member running for any elective office.

20 (h) “Contributor” means a person or business entity that makes a payment.

21 (i) “County Council” means the County Council of Prince George’s County.

22 (j) “County Executive” means the County Executive of Prince George’s County.

23 (k) “District Council” means the County Council of Prince George’s County sitting
24 as the District Council for the Prince George’s County portion of the Maryland–Washington
25 Regional District.

26 (l) “Member” includes any candidate or person duly elected or appointed who
27 takes the oath of office as a member of the County Council for Prince George’s County and
28 who thereby serves on the District Council.

1 (m) “Payment” means a payment or contribution of money or property or the
2 incurring of a liability or promise of anything of value to a treasurer of a candidate, a
3 candidate’s continuing political committee, or a slate to which the candidate belongs.

4 (n) (1) “Pendency of the application” means the time between the acceptance of
5 a filing of an application by the appropriate agency and expiration of the time under which
6 an appeal on the application may be taken.

7 (2) “Pendency of the application” does not include a period during which:

8 (i) action on the application is under judicial review; or

9 (ii) judicial review may be requested.

10 (o) “Political action committee” means a political committee that is not:

11 (1) a political party;

12 (2) a central committee;

13 (3) a slate; or

14 (4) a political committee organized and operated by, and solely on behalf of,
15 an individual running for any elective office or a slate.

16 (p) “Slate” means a group, combination, or organization of candidates created
17 under the Election Law Article.

18 (q) (1) “Treasurer” has the meaning stated in § 1-101 of the Election Law
19 Article.

20 (2) “Treasurer” includes a subtreasurer.

21 5-835.

22 (a) An applicant or agent of the applicant may not make a payment to a member,
23 or a slate that includes a member, during the pendency of the application.

24 (b) (1) After an application has been filed, a member may not vote or participate
25 in any way in the proceeding on the application if the member’s treasurer or continuing
26 political committee, or a slate to which the member belongs or belonged during the 36-month
27 period before the filing of the application, received a payment during the 36-month period
28 before the filing of the application or during the pendency of the application from any of the
29 applicants or the agents of the applicants.

30 (2) A member is not subject to the requirements of paragraph (1) of this
31 subsection if:

1 (i) 1. a transfer to the member's treasurer, a continuing political
2 committee, or a slate to which the member belongs or belonged during the 36-month period
3 before the filing of the application was made by a political action committee to which an
4 applicant or agent had made a payment;

5 [(ii)] 2. the applicant or agent made the payment to the political
6 action committee without any intent to subvert the purposes of this subtitle;

7 [(iii)] 3. the applicant's or agent's payment to the political action
8 committee, and the political action committee's transfer, are disclosed in an affidavit; and

9 [(iv)] 4. the transfer is returned to the political action committee by
10 the member, or the payment is returned to the applicant or agent by the political action
11 committee; OR

12 **(II) THE PROCEEDING IN WHICH THE MEMBER PARTICIPATES IS**
13 **PART OF A COUNTYWIDE ZONING MAP AMENDMENT THAT IS RECOMMENDED BY THE**
14 **PLANNING BOARD, WHERE THE INTENT IS TO IMPLEMENT AN APPROVED GENERAL**
15 **PLAN BY REPEALING AND REPLACING ALL ZONING CATEGORIES APPLICABLE TO**
16 **LAND IN PRINCE GEORGE'S COUNTY.**

17 (c) (1) After an application is filed, the applicant shall file an affidavit under
18 oath:

19 (i) 1. stating to the best of the applicant's information,
20 knowledge, and belief that during the 36-month period before the filing of the application
21 and during the pendency of the application, the applicant has not made any payment to a
22 member's treasurer, a member's continuing political committee, or a slate to which the
23 member belongs or belonged during the 36-month period before the filing of the application;
24 or

25 2. if any such payment was made, disclosing the name of the
26 member to whose treasurer or continuing political committee, or slate to which the member
27 belongs or belonged during the 36-month period before the filing of the application, the
28 payment was made;

29 (ii) 1. stating to the best of the applicant's information,
30 knowledge, and belief that during the 36-month period before the filing of the application
31 and during the pendency of the application, the applicant has not solicited any person or
32 business entity to make a payment to a member's treasurer, a member's continuing political
33 committee, or a slate to which the member belongs or belonged during the 36-month period
34 before the filing of the application; or

35 2. if any such solicited payment was made, disclosing the
36 name of the member to whose treasurer or continuing political committee, or slate to which

1 the member belongs or belonged during the 36-month period before the filing of the
2 application, the payment was made; and

3 (iii) 1. stating to the best of the applicant's information,
4 knowledge, and belief that during the 36-month period before the filing of the application
5 and during the pendency of the application, a member of the applicant's household has not
6 made a payment to a member's treasurer, a member's continuing political committee, or a
7 slate to which the member belongs or belonged during the 36-month period before the filing
8 of the application; or

9 2. if any such payment was made, disclosing the name of the
10 member to whose treasurer or continuing political committee, or slate to which the member
11 belongs or belonged during the 36-month period before the filing of the application, the
12 payment was made.

13 (2) The affidavit shall be filed at least 30 calendar days before consideration
14 of the application by the District Council.

15 (3) A supplemental affidavit shall be filed whenever a payment is made
16 after the original affidavit was filed.

17 (4) (i) An applicant is not required to make any representations in the
18 affidavit pertaining to the actions of anyone other than that applicant.

19 (ii) Anyone with authority to act on behalf of and bind a business
20 entity may execute an affidavit on behalf of the business entity.

21 (5) The only disclosures required under the affidavit are those involving
22 individuals or business entities that would be subject to this subtitle.

23 (d) (1) An agent shall file an affidavit in an application only if:

24 (i) the agent has acted on behalf of the applicant with regard to the
25 specific application; and

26 (ii) during the 36-month period before the filing of the application
27 and during the pendency of the application, and after becoming an agent of the applicant:

28 1. the agent has made a payment to a member, a member's
29 continuing political committee, or a slate to which the member belongs or belonged during
30 the 36-month period before the filing of the application; or

31 2. the agent has solicited any person to make a payment to a
32 member's treasurer, a member's continuing political committee, or a slate to which the
33 member belongs or belonged during the 36-month period before the filing of the application.

1 (2) Notwithstanding paragraph (1)(ii) of this subsection, an agent shall
2 disclose in the affidavit a payment made before becoming an agent if the agent:

3 (i) made the payment by prearrangement or in coordination with one
4 or more applicants; or

5 (ii) acted as an agent as to any other application filed during the
6 36-month period.

7 (e) (1) Except as provided in paragraph (2) of this subsection, a contributor, a
8 member, or a political action committee is subject to this part if a payment is made by the
9 contributor or a transfer is made by the political action committee to:

10 (i) the candidate;

11 (ii) the candidate's continuing political committee; or

12 (iii) a slate to which the member belongs or belonged during the
13 36-month period before the filing of the application.

14 (2) This part does not apply to:

15 (i) any transfer to the continuing political committee of a member by
16 the continuing political committee of another individual running for elective office; or

17 (ii) a payment or transfer to the Prince George's County or State
18 Central Committee of a political party, even if the Central Committee supports a candidate.

19 (3) A person may not make a payment in violation of this part.

20 (f) An applicant or agent may not take any action, directly or indirectly, with the
21 intent to circumvent the intent of this part.

22 SECTION 2. AND BE IT FURTHER ENACTED, That:

23 (a) This section applies during the period when the District Council of Prince
24 George's County is adopting and approving a countywide zoning map amendment for Prince
25 George's County.

26 (b) Except on a demonstration of error in the public record after a public hearing,
27 the Prince George's County Planning Board may not recommend, and the District Council
28 may not approve, any request made by or on behalf of any person for zone intensification
29 that differs substantially from the applicable zoning category or classification recommended
30 in the Proposed Guide to New Zones adopted by the District Council on July 16, 2019, under
31 Council Resolution 27-2.

1 (c) If a member, as defined in § 5-833 of the General Provisions Article, receives a
 2 payment or transfer from any applicant, agent, or entity that files an affidavit under §
 3 5-835(c) of the General Provisions Article and requests a zone intensification that differs
 4 substantially from the applicable zoning category or classification recommended in the
 5 Proposed Guide to New Zones, the member's treasurer, continuing political committee, or
 6 the slate to which the member belongs or belonged must:

7 (1) return the payment or transfer; and

8 (2) make note in the public record of the returned payment or transfer before
 9 the adoption of the countywide zoning map amendment.

10 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 11 July 1, 2021. It shall remain effective for a period of 1 year and 6 months and, at the end of
 12 December 31, 2022, this Act, with no further action required by the General Assembly, shall
 13 be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.